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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,582	09/08/2003	Robin G. Skinner	TEC1216-01	9887
832	7590	03/12/2004	EXAMINER	
BAKER & DANIELS 111 E. WAYNE STREET. SUITE 800 FORT WAYNE, IN 46802			TRIEU, THERESA	
			ART UNIT	PAPER NUMBER
			3748	

DATE MAILED: 03/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/657,582

Applicant(s)

SKINNER, ROBIN G.

Examiner

Theresa Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date September 8, 2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "56" has been used to designate both "second passage" (see page 5, [0019] paragraph, line 6) and "entry port to discharge tube" (see page 10, [0030] paragraph, line 5). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "210, 212, 214, 216" (see page 11, [0032] paragraph, line 7). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Information Disclosure Statement***

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Claims 1-4, 6-8 and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Herrick et al. (Herrick) (Patent Number 5,348,455).***

Regarding claims 1, 6 and 13, as shown on Figs. 1 and 2, Herrick discloses a compressor assembly for compressing a gas and lubricated with an oil, the compressor assembly comprising:

a hermetic sealed housing (12) defining a high pressure discharge chamber (47) and low pressure chamber (45),

a compressor mechanism (30) disposed within the housing and defining a working space in which gas is compressed, the compressor mechanism having a first port (46) in communication with the discharge chamber;

a second port (not numbered; however, clearly seen in Fig. 1) in the discharge chamber (34) defining an outlet in the housing, the second port disposed vertically below the first port (46) in a lower half of the discharge chamber whereby oil collected (29) and wherein substantially all fluids entering the discharge chamber enter through the first port (46 --see col. 5, line 4-19) and substantially all fluids exiting the discharge chamber exit through the second port.

Regarding claims 2-4, 7, 8, 11, 12 and 14, Herrick discloses a valve (see col. 3, line 68 and col. 4, line 1-5) sealingly engageable with the first port (46); a discharge tube (32) having an inlet (not numbered; however, clearly seen in Fig. 1) positioned in the discharge chamber (34),

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the inlet defining the second port; the discharge tube (32) extending through the housing (12), the discharge tube (32) being welded to the housing (12) at the flat portion (see col. 3, line 52-53); an inlet opening (44) in communication with the low pressure chamber (45); low pressure chamber defining an oil sump (29); a motor (14) for driving the compressor mechanism (30).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

***Claims 5, 9, 10, 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrick '455 in view of Furukawa (Publication Number JP 2002-021729).***

Herrick discloses the invention as recited above; however, Herrick fails to disclose a compressor device being a scroll compressor.

Regarding claims 5, 9, 10 and 17, as shown in Figs. 1 and 3, Furukawa teaches that it is conventional in the scroll compressor art to utilize a fixed scroll member (4) and an orbiting scroll member (5) being mutually engaged, the first port (4c) defined by the fixed scroll member (4); a valve (13) sealingly engageable with the first port (4c), the valve (13) allowing fluids to enter the high pressure chamber (10). With regard claims 15 and 16, Furukawa further discloses a circulating oil (12) within the low pressure chamber includes collecting oil (17 - see Fig. 4) within an oil sump (16) disposed within the low pressure chamber. It would have been obvious

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to one having ordinary skill in the art at the time the invention was made, to have utilized the scroll compressor as taught by Furukawa in the Herrick device since both types of compressor are shown to be conventionally utilized to compress a liquid/air.

***Prior Art***

The IDS (PTO-1449) filed on September 8, 2003 has been considered. An initialized copy is attached hereto.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of two patents.

Ichikawa (Patent Number 4,416,594) discloses a horizontal type vibrating compressor.

Cooksey (Patent Number 5,222,885) discloses a horizontal rotary compressor oiling system.

***Communication***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 703-308-6434. The examiner can normally be reached on Monday-Thursday 7:30am- 6:00pm - Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E Denion can be reached on 703-308-2623. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TT

March 11, 2004



Theresa Trieu

Patent Examiner

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